

**REMARKS**

The Office Action dated February 27, 2007 has been received and carefully noted. The above amendments to the claims, and the following remarks, are submitted as a full and complete response thereto.

Claims 1, 13, 17 and 18 have been amended to more particularly point out and distinctly claim the subject matter of the invention. No new matter has been added. Claims 1-18 are submitted for consideration.

Claims 1-18 were rejected under 35 U.S.C. 101 as being directed to non-statutory matter. According to the Office Action, the claimed subject matter fails to define a useful, concrete and tangible result in the process/method that is being claimed. Claims 1, 13, and 18 have been amended to define a useful, concrete and tangible result in the process/method that is being claimed.

Applicants note that MPEP 2107 states that for a claim to be considered useful, the utility of the invention has to be specific, substantial and credible. This section of the MPEP states that if an applicant has asserted that the claimed invention is useful for any particular practical purpose, i.e., it has a “specific and substantial utility” and if the assertion would be considered credible by a person of ordinary skill in the art, then the invention meets the utility requirement under 35 U.S.C. 101. Claims 1, 13, 17 and 18 are used for processing data arrays that collectively describe cyclic behavior of at least one variable in several entities in a physical process to obtain the second plurality of the scaled data arrays for use in determining at least one condition. Claims 1, 13, 17 and 18

clearly recite the steps to be performed in order to determine the at least one condition. The amended claims thus provide a useful and tangible result by using the second plurality of the scaled data arrays to determine at least one condition. Based on the amendment to claims 1, 13, 17 and 18 and the arguments noted above, Applicants respectfully request that the rejection be withdrawn.

Claims 13-16 were also rejected as being devoid of any apparent hardware, and therefore are computer programs. The rejection is traversed because U.S. courts have held that “when functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory since the use of technology permits the function of the descriptive material to be realized.” *In re Lowry*, 32 F.3d 1579, 1583-84. Thus, the U.S. courts have held that claims to, for example, a data structure stored on a computer-readable medium that increases computer efficiency, is statutory. *In Re Warmerdam*, 33 F.3d at 1360-61. Annex IV of the U.S. PTO Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility also states that “a claimed computer-readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure’s functionality to be realized, and is thus statutory.” Based on the holdings by the U.S courts and the PTO Interim Guidelines, Applicants submit that this rejection is inappropriate and request that the rejection be withdrawn.

As noted previously, claims 1-18 recite subject matter which is neither disclosed nor suggested in the prior art references cited in the Office Action. It is therefore respectfully requested that all of claims 1-18 be allowed and this application passed to issue.

If for any reason the Examiner determines that the application is not now in condition for allowance, it is respectfully requested that the Examiner contact, by telephone, the applicants' undersigned attorney at the indicated telephone number to arrange for an interview to expedite the disposition of this application.

In the event this paper is not being timely filed, the applicants respectfully petition for an appropriate extension of time. Any fees for such an extension together with any additional fees may be charged to Counsel's Deposit Account 50-2222.

Respectfully submitted,

  
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Enclosures: Petition for Extension of Time  
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